

1 BARRY J. PORTMAN  
Federal Public Defender  
2 REBECCA SULLIVAN SILBERT  
Assistant Federal Public Defender  
3 555 - 12th Street, Suite 650  
Oakland, CA 94607-3627  
4 Telephone: (510) 637-3500  
Email: Rebecca\_Silbert@fd.org  
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Counsel for Defendant THOMAS  
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9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) No. CR 01-0482 PJH  
12 )  
Plaintiff, )  
13 vs. ) **STIPULATION REGARDING**  
 ) **SENTENCE REDUCTION UNDER**  
14 CHARLES THOMAS, ) **U.S.S.G. AMENDMENT 706 (AS**  
 ) **AMENDED BY 711)**  
15 Defendant. )  
16 \_\_\_\_\_ )  
17

18 **IT IS HEREBY STIPULATED AND AGREED**, by and between the parties acting  
19 through their respective counsel, that:

- 20 1. The Court has indicated that it is making its own motion for a modification of the  
21 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).  
22 2. Defendant's original guideline calculation was as follows:  
23 Total Offense Level: 29  
24 Criminal History Category: III  
25 Guideline Range: 108-135  
26 3. Defendant was sentenced to 108 months imprisonment on August 31, 2004.

- 1 4. Defendant's current projected release date is August 31, 2009.
- 2 5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §  
3 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission  
4 Guidelines Manual.
- 5 6. Defendant's revised guideline calculation is as follows:  
6 Total Offense Level: 27  
7 Criminal History Category: III  
8 Guideline Range: 87-108
- 9 7. The parties have no reason to dispute the Reduction of Sentence Report submitted to the  
10 Court by the probation office.
- 11 8. Based upon the foregoing, the parties hereby stipulate that a sentence of 94 months is  
12 appropriate in this matter.
- 13 9. The parties further stipulate that all other aspects of the original judgment order including  
14 the length of term of supervised release, all conditions of supervision, fines, restitution,  
15 and special assessment remain as previously imposed.
- 16 10. Defendant stipulates that he waives and does not request a hearing in this matter pursuant  
17 to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220  
18 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472  
19 F.3d 1167 (9<sup>th</sup> Cir. 2007).
- 20 11. Defendant waives his right to appeal the district court's sentence.
- 21 12. Accordingly, the parties agree and stipulate that an amended judgement may be entered  
22 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and  
23 USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*  
24 *Guidelines Manual*.

25  
26 IT IS SO STIPULATED:

/S/

Date: May 13, 2008

\_\_\_\_\_  
Rebecca Sullivan Silbert  
Counsel for Charles Thomas

/S/

Date: May 13, 2008

\_\_\_\_\_  
Erika Frick  
Assistant United States Attorney

I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
“conformed” signature (/S/) within this e-filed document.

### ORDER

Based on the above stipulation, the Court hereby ORDERS the following:

1. The Court is making its own motion for a modification of the defendant’s sentence pursuant to 18 U.S.C. § 3582(c)(2);
2. **The original Judgment in the above-captioned case is AMENDED to impose a term of imprisonment of 94 months.** All other aspects of the original judgment, including the length of term of supervised release, all conditions of supervision, fines, restitution, and special assessment remain as previously imposed.
3. Defendant’s original guideline calculation was as follows:  
Total Offense Level: 29  
Criminal History Category: III  
Guideline Range: 108-135  
Sentence Imposed: 108 months
4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission Guidelines Manual;

1 5. Defendant's revised guideline calculation is as follows:

2 Total Offense Level: 27

3 Criminal History Category: III

4 Guideline Range: 87-108

5 6. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43,  
6 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v.*  
7 *United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9<sup>th</sup> Cir.  
8 2007).

9 7. Defendant has waived his right to appeal the sentenced imposed by this Order.

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11  
12 Date: 5/15/08

